

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	NCE MX Group 145
Blues and Gospel Heritage Association)	
)	
Application for Permit to Construct a)	
New Noncommercial Educational FM Station at)	File No. BNPED-20071022AWT
Jonestown, Mississippi)	Facility I.D. No. 177327
)	
)	
and)	
)	
Quitman County Development Organization d/b/a)	
Deep South Delta Foundation)	
)	
Application for Permit to Construct a)	File No. BNPED-20071022AHR
New Noncommercial Educational FM Station at)	Facility ID No. 176186
Clarksdale, Mississippi)	

MEMORANDUM OPINION AND ORDER

Adopted: April 15, 2014

Released: April 16, 2014

By the Commission:

1. The Commission has before it a November 25, 2011 Application for Review filed by Blues and Gospel Heritage Association (“BGHA”) which seeks review of an October 25, 2011 decision letter by the Media Bureau (“Bureau”).¹ The *Letter* affirmed the Bureau’s earlier dismissal of BGHA’s application for a new noncommercial educational (“NCE”) FM station at Jonestown, Mississippi and grant of the mutually exclusive application of Quitman County Development Organization d/b/a Deep South Delta Foundation (“Quitman”) to construct a new NCE FM station at Clarksdale, Mississippi.² Quitman, whose mission is to transform the Mississippi Delta through self-help strategies,³ prevailed over BGHA because only Quitman qualified for a threshold fair distribution of service preference by proposing to provide a first and/or second NCE aural reception service to potential listeners.⁴ The Bureau observed that Quitman had submitted exhibits supporting its fair distribution claim and that the Bureau had

¹ See *Blues and Gospel Heritage Association*, Letter, Ref. 1800B3-VMM (MB Oct. 25, 2011) (“*Letter*”).

² See *Blues and Gospel Heritage Association*, Letter, 25 FCC Rcd 8472 (MB 2010). See also *Threshold Fair Distribution Analysis of 26 Groups of NCE Applications*, Memorandum Opinion and Order, 23 FCC Rcd 9934, 9941 (2008).

³ See <http://www.qcdo.org/>. Apart from its radio venture, Quitman focuses on housing development, micro-enterprise loans, energy assistance for the elderly and disabled, and early childhood development.

⁴ See 47 U.S.C. § 307(b); 47 C.F.R. § 73.7002. In order to qualify for a fair distribution preference, an applicant must propose to serve a different community from that proposed by a mutually exclusive applicant and must provide a first and/or second NCE aural service to (a) at least ten percent of the people residing within the station’s predicted 60 dBu service contour, and (b) to a minimum of 2,000 people. 47 C.F.R. § 73.7002(b). BGHA did not claim a fair distribution preference.

conducted an independent engineering analysis which confirmed Quitman's claim.⁵ BGHA argues on review that the Bureau erred because neither Quitman nor the Bureau publicly disclosed the engineering and technical calculations upon which their fair distribution analyses were based, making verification by BGHA impossible.⁶

2. Upon review of the Application for Review⁷ and the entire record, we conclude that BGHA has failed to demonstrate that the Bureau erred. The Bureau properly decided the matters raised, and we uphold its decision for the reasons stated in its *Letter*.

3. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,⁸ and Section 1.115(g) of the Commission's Rules,⁹ the Application for Review filed by Blues and Gospel Heritage Association IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵ Quitman claimed that its proposed station's signal would reach a first-NCE-service population of 17,149 persons, just over 32 percent of the population within its 60 dBu contour. *See Letter* at 2 and n.10 citing File No. BNPED-20071022AHR, Exhibit 12 (First service statement and coverage map), Attachments 12 (First service coverage map), 16 (community coverage map), and 17 (Engineering statement and exhibits).

⁶ Application for Review at 1-3. In an Opposition filed on December 7, 2011, Quitman argues that the map supplied in its application contained all of the information BGHA would have needed to verify Quitman's engineering using one of several commercially available software programs. Quitman Opposition at 2. BGHA did not file a reply to the Opposition.

⁷ BGHA also maintains that, with the Bureau's grant of the Quitman application, BGSA's due process rights under the Fifth Amendment of the United States Constitution "have been infringed," in that it has been "denied a valuable property interest...." Application for Review at 2. Because BGSA failed to present this argument to the Bureau, it is precluded from raising it here. *See* 47 C.F.R. § 1.115(c).

⁸ 47 U.S.C. § 155(c)(5).

⁹ 47 C.F.R. § 1.115(g).